

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

April 21, 2008

MISC. ORDER 2008-007

BY THE COURT:

Associate Justice Harry Hull is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on April 24, and April 25, 2008, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Cantil-Sakauye, Associate Justice; and Horner, bailiff.

C053426 PUBLIC UTILITIES COMMISSION v. FIGGS; JOHN RICHARDSON, as Receiver, etc.

Cause called. Brian C. Hamman argued for appellant. Cleveland W. Lee argued for respondent. John W. Richardson argued for respondent in pro per. Cause submitted.

At 10:02 a.m., the court recessed. At 10:05 a.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Cantil-Sakauye, Associate Justice.

C054605 STEINER v. PAUL THEXTON, as Trustee, etc.; SIDDIQUI FAMILY PARTNERSHIP

Cause called. Klaus J. Kolb argued for intervener and appellant. Robert Vaughan argued for appellant. David L. Price argued for respondent. Cause submitted.

At 10:45 a.m., the court recessed. At 10:46 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

C054563 GARCIA et al. v. CAL-WEST CONCRETE CUTTING

Cause called. Christine M. Garrison argued for appellant. Stephen F. Davids argued for respondent. Cause submitted.

At 11:27 a.m., the court recessed. At 2:00 p.m., the court reconvened with Blease, Associate Justice; Butz, Associate Justice; and Cantil-Sakauye, Associate Justice.

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April 21, 2008 continued

**C053641 FORTY-NINER SIERRA RESOURCES, INC. et al. v. MOTOR VEHICLE
BOARD; SUBARU OF AMERICA**

Cause called. Richard E. Wilmshurst argued in pro per for and Jeffrey D. Heiser appeared only for appellants. Maurice Sanchez argued for respondent. Cause submitted.

At 2:14 p.m., the court recessed. At 2:17 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Butz, Associate Justice.

C053515 CARLSSON v. CARLSSON

Cause called. Brendon Ishikawa argued for appellant. Stephanie Finelli argued for respondent. Cause submitted.

At 2:17 p.m., the court recessed. At 2:49 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C053662 THE PEOPLE v. STEELE

Cause called. Stephen Temko, court appointed counsel, argued for appellant. Christina D. Hitomi, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:16 p.m., the court recessed until Tuesday, April 22, 2008, at 9:30 a.m.

C054580 THE PEOPLE v. HARDER

(Not For Publication)

The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Nicholson, J.
Robie, J.

C055309 THE PEOPLE v. COLES et al.

(Not For Publication)

The judgments are affirmed.
SCOTLAND, P.J.
We Concur: Sims, J.
Raye, J.

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Court Minutes

April 21, 2008 continued

C055518 THE PEOPLE v. RIDGEWAY (Not For Publication)

The judgment is modified to reduce the fines imposed pursuant to Penal Code section 290.3 to \$200 and \$300. As modified, the judgment is affirmed. The superior court is directed to amend the abstract of judgment accordingly and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

SIMS, J.

We Concur: Scotland, P.J.

Raye, J.

April 22, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Nicholson, Associate Justice; and Haskett, bailiff.

C053094 GONZALEZ v. MARUFFO

Cause called. No appearance was made by appellant. No appearance was made by respondent. Cause submitted.

At 9:32 a.m., the court recessed. At 9:36 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Robie, Associate Justice.

C054228 THE PEOPLE v. WILKINSON

Cause called. Emily E. Doring argued for appellant. R. Todd Marshall, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:14 a.m., the court recessed. At 10:20 a.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Robie, Associate Justice.

C053675 THE PEOPLE v. STAYER

Cause called. Deborah L. Hawkins, court appointed counsel, argued for appellant Robert Lee Stayer. Kyle Gee, court appointed counsel, argued for appellant Timothy Thomas Stayer. Susan J. Orton, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:57 a.m., the court recessed. At 11:02 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

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April 22, 2008 continued

C054401 THE PEOPLE v. CHAPMAN

Cause called. Scott Concklin, court appointed counsel, argued for appellant. Peter W. Thompson, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:26 a.m., the court recessed. At 11:30 a.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

C054689 THE PEOPLE v. ALBRICH

Cause called. Richard Power, court appointed counsel, argued for appellant. John G. McLean, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:52 a.m., the court recessed. At 2:01 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Robie, Associate Justice.

C054523 CHRISTIAN et al. v. FLORA et al.

Cause called. Timothy A. Charshaf argued for cross-defendants and appellants. Jay-Allen Eisen argued for cross-complainants and respondents. Cause submitted.

At 2:33 p.m., the court recessed. At 2:38 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C046880 THE PEOPLE v. DEO et al.

CONSOLIDATED WITH:

C047126 THE PEOPLE v. NARAYAN

Cause called. Cara DeVito, court appointed counsel, argued for appellant Kumar. Charles M. Bonneau, court appointed counsel, argued for appellant Narayan. Daniel B. Bernstein, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:19 p.m., the court recessed until Wednesday, April, 23, 2008 at 9:30 a.m.

C054790 THE PEOPLE v. SCHREIBER

(Not For Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Sims, Acting P.J.

Raye, J.

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Court Minutes

April 22, 2008 continued

C055082 THE PEOPLE v. SELGA (Certified For Publication)

The criminal protective order is stricken. The matter is remanded to the trial court to exercise its discretion on whether to impose a similar stay-away order as a condition of probation under Penal Code section 1203.1. In all other respects, the judgment is affirmed.

SIMS, J.

We Concur: Scotland, P.J.

Raye, J.

C055603 THE PEOPLE v. BOLES (Not For Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Raye, Acting P.J.

Hull, J.

C055884 THE PEOPLE v. STAIGER (Not For Publication)

The judgment is modified to impose a \$20 court security fee. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.

HULL, J.

We Concur: Davis, Acting P.J.

Robie, J.

C056065 THE PEOPLE v. GUYTON (Not For Publication)

The judgment is affirmed.

HULL, J.

We Concur: Scotland, P.J.

Butz, J.

C056628 THE PEOPLE v. BARRON, JR. (Not For Publication)

The judgment is vacated and the matter is remanded with directions to the trial court to allow the defendant to withdraw his plea, in which case the original charges should be reinstated. Defendant shall file any motion to withdraw his plea within 30 days of the filing of our remittitur. If defendant chooses not to withdraw his plea, the trial court shall reinstate the sentence and recalculate custody credits in accordance with this opinion.

BLEASE, J.

We Concur: Scotland, P.J.

Hull, J.

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Court Minutes

April 22, 2008 continued

C056095 In re S.D.; BUTTE COUNTY (Not For Publication)
DEPARTMENT OF EMPLOYMENT AND
SOCIAL SERVICES v. N.D.

The June 20, 2007, orders of the juvenile court pertaining to the minor are reversed, and the matter is remanded to the juvenile court with directions to order DESS to provide the tribes with proper notice of the proceedings under ICWA, unless the matter already was decided. If, after receiving notice under ICWA, no tribe indicates the minor is an Indian child within the meaning of ICWA, then the juvenile court shall reinstate the June 20, 2007, orders. If, on the other hand, a tribe responds affirmatively, then the court must consider the issues pursuant to the procedural and evidentiary requirements of ICWA. In all other respects, the orders are affirmed.

HULL, J.

We Concur: Blease, Acting P.J.
 Nicholson, J.

C056463 SAN JOAQUIN LOCAL AGENCY (Certified For Publication)
FORMATION COMMISSION v. THE
SUPERIOR COURT OF SAN JOAQUIN
COUNTY; SOUTH SAN JOAQUIN
IRRIGATION DISTRICT; PACIFIC GAS
& ELECTRIC COMPANY

A peremptory writ of mandate or prohibition will issue directing the superior court to vacate its order permitting the depositions of Chairman Jack Sieglock, Commissioners Gary Giovanetti and Bruce Baracco, and to enter a new order granting SJ LAFCO's motion for a protective order in its entirety. The alternative writ is discharged. SJ LAFCO is awarded costs. ...

MORRISON, J.

We Concur: Sims, Acting P.J.
 Butz, J.

C056661 SOUTH SAN JOAQUIN (Certified For Publication)
IRRIGATION DISTRICT v.
THE SUPERIOR COURT OF SAN JOAQUIN
COUNTY; SAN JOAQUIN LOCAL AGENCY
FORMATION COMMISSION; PACIFIC GAS
& ELECTRIC COMPANY

The petition for a writ of mandate or prohibition is denied. The alternative writ, having served its purpose, is discharged. SJ LAFCO and PG&E are awarded their costs. ...

MORRISON, J.

We Concur: Sims, Acting P.J.
 Butz, J.

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Court Minutes

April 22, 2008 continued

**C055005 PLUMAS COUNTY CHILD SUPPORT (Certified For Publication)
SERVICES v. RODRIQUEZ**

THE COURT:

The opinion of this court filed March 26, 2008, in the above entitled case is modified as follows: With this modification, the petition for rehearing is denied. The modification does not affect the judgment.

BY THE COURT:

SIMS, Acting P.J.
Nicholson, J.
Robie, J.

April 23, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Raye, Associate Justice; Cantil-Sakauye, Associate Justice; and Harper, bailiff.

**C054907 BARR v. WORKERS; COMPENSATION APPEALS BOARD and
SUBSEQUENT INJURIES BENEFITS TRUST FUND**

Cause called. Thomas B. Brown argued for petitioner. Michael R. Drayton argued for respondents. Neil P. Sullivan argued for respondents. Cause submitted.

At 10:10 a.m., the court recessed. At 10:17 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

CONSOLIDATED WITH:

**C057303 DEPARTMENT OF INDUSTRIAL RELATIONS v. WORKERS'
COMPENSATION APPEALS BOARD and DORIGO**

Cause called. Thomas B. Brown argued for respondents. Michael Drayton argued for petitioners. Neil P. Sullivan argued for respondents. Cause submitted.

At 10:10 a.m., the court recessed. At 10:17 a.m., the court reconvened with Davis, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

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April 23, 2008 continued

C053553 STEELE v. YOUTHFUL OFFENDER PAROLE BOARD

Cause called. Alicia M.B. Fowler, Deputy Attorney General, argued for appellant. Anthony J. Poidmore argued for respondent. Cause submitted.

At 10:49 a.m., the court recessed. At 2:02 p.m., the court reconvened with Raye, Associate Justice; Morrison, Associate Justice; and Butz, Associate Justice.

C054971 DYER v. DEPARTMENT OF MOTOR VEHICLES

Cause called. Barbara A. Morris, Deputy Attorney General, argued for appellant. Barry W. Jones argued for respondent. Cause submitted.

At 2:29 p.m., the court recessed. At 2:32 p.m., the court reconvened with Raye, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

**C057491 ROSSINI et al. v. THE SUPERIOR COURT OF PLACER COUNTY;
RYAN**

Cause called. Douglas E. Watts argued for petitioners. Lawrence E. Skidmore argued for real party in interest. Cause submitted.

At 2:53 p.m., the court recessed until Friday, April 25, 2008 at 9:30 a.m.

C053346 THE PEOPLE v. ANDRADE (Not For Publication)

The judgment is modified to stay the sentence imposed on count two, the robbery count. The trial court is directed to prepare an amended abstract of judgment reflecting this change and to forward a copy to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.

HULL, J.

We Concur: Nicholson, Acting P.J.

Robie, J.

C055410 THE PEOPLE v. SMITH (Not For Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Scotland, P.J.

Sims, J.

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April 23, 2008 continued

C055068 In re VINCENT G.; THE PEOPLE v. (Certified For Publication)
VINCENT G.

The gang conditions are modified as follows: "1. You are not to associate with any person whom you know, or whom the probation officer informs you, is a gang member. For purposes of these conditions, the word gang means a criminal street gang as defined in Penal Code section 186.22, subdivisions (e) and (f). 2. You are not to possess, wear or display any clothing or insignias, emblems, badges, or buttons that you know, or that the probation officer informs you, are gang gestures; nor be at areas you know, or that the probation officer informs you, are frequented by gang members." As so modified, the judgment is affirmed.

SIMS, Acting P.J.

We Concur: Davis, J.
 Raye, J.

C055083 In re ANTHONY R.; THE PEOPLE v. (Not For Publication)
ANTHONY R.

The judgment is modified to award the minor 68 days of credit toward his 75-day juvenile hall commitment and 75 days of credit toward his five year maximum period of confinement. As so modified, the judgment is affirmed. The juvenile court is directed to send a certified copy of its amended commitment to the officer having custody of the minor.

SCOTLAND, P.J.

We Concur: Sims, J.
 Robie, J.

C055811 In re CHRISTOPHER G.; THE PEOPLE v. (Not For Publication)
CHRISTOPHER G.

The judgment is affirmed.

RAYE, J.

We Concur: Scotland, P.J.

I Concur in the result:

Morrison, J.

C057419 STATE DEPARTMENT OF SOCIAL (Certified For Partial Publication)
SERVICES et al. v. THE SUPERIOR
COURT OF SISKIYOU COUNTY;
D.P. et al.

The petition is denied.

HULL, J.

We Concur: Scotland, P.J.

Blease, J.

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April 23, 2008 continued

C053234 SUKELIS et al. v. TIGUE et al.
BY THE COURT:
Appellants' petition for rehearing is denied.
DAVIS, Acting P.J.

April 24, 2008

C051307 THE PEOPLE v. SHIPLEY (Not For Publication)
The judgment is modified by striking the parole revocation fine imposed under section 1202.45. The trial court shall prepare an amended abstract of judgment that deletes the parole revocation fine at item 5.b., corrects the year of the crime and conviction by jury in item 1., and in item 10., marks the box that execution of sentence was imposed at the initial sentencing hearing. The court shall forward a certified copy of the amended abstract to the Department of corrections and Rehabilitation. As modified, the judgment is affirmed.
BUTZ, J.
We Concur: Sims, Acting P.J.
Robie, J.

C054989 THE PEOPLE v. SAMS (Not For Publication)
The judgment is reversed, and the matter is remanded for the trial court to conduct a *Marsden* hearing. If defendant makes the required showing under *Marsden*, the court shall appoint new counsel. If defendant's *Marsden* motion is denied, the trial court shall reinstate the judgment as modified, striking the penalties on count 3 under Penal Code section 1465.7, subdivision (a) and Government Code sections 70372 and 76104.6, and send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
BUTZ, J.
We Concur: Scotland, P.J.
Morrison, J.

C053456 AMES v. BENITO et al. (Not For Publication)
The judgment is affirmed.
DAVIS, Acting P.J.
We Concur: Robie, J.
Butz, J.

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Court Minutes

April 24, 2008 continued

- C055017 In re T.H. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. DESIREE M. (Not For Publication)**
The dispositional order is affirmed.
MORRISON, J.
We Concur: Blease, P.J.
 Robie, J.
- C056185 In re J.T.; SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. C.C.**
BY THE COURT:
Appellant's petition for rehearing is denied.
SCOTLAND, P.J.
- C056206 In re PRISCILLA W.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. LISA W. et al.**
BY THE COURT:
Appellant Lisa W.'s petition for rehearing is denied.
SCOTLAND, P.J.
- C056206 In re PRISCILLA W.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. LISA W.**
BY THE COURT:
Appellant Virgil W.'s petition for rehearing is denied.
SCOTLAND, P.J.
- C056735 In re MAYA F.; SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. CECENIA F.**
BY THE COURT:
Respondent's petition for rehearing is denied.
SIMS, Acting P.J.

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April 25, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Davis, Associate Justice; Nicholson, Associate Justice; and Harper, bailiff.

C053512 DICKSON v. REHMKE

Cause called. G. Michael Williams argued for appellant. Kurt Henry Siebert argued for respondent. Cause submitted.

At 9:56 a.m., the court recessed. At 10:00 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Cantil-Sakauye, Associate Justice.

C053304 THE PEOPLE v. WESTFALL

Cause called. Jeffrey S. Kravitz argued for appellant. John G. McLean, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:18 a.m., the court recessed. At 10:23 a.m., the court reconvened with Blease, Associate Justice; Butz, Associate Justice; and Cantil-Sakauye, Associate Justice.

C054962 BELL, SR. v. BELL

Cause called. Randolphe Alvin Bell argued for appellant in pro per. Larry Eugene Bell argued for respondent in pro per. Cause submitted.

At 10:38 a.m., the court recessed. At 10:43 a.m., the court reconvened with Hull, Associate Justice; Butz, Associate Justice; and Cantil-Sakauye, Associate Justice.

C055715 In re ALVIN T.; THE PEOPLE v. ALVIN T.

Cause called. Kevin A. Hicks, Deputy District Attorney, argued for appellant. Robert F. Kane, court appointed counsel, argued for respondent. Cause submitted.

At 11:03 a.m., the court recessed. At 1:59 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

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C055671 THE PEOPLE v. SANDOVAL

Cause called. Peggy A. Headley, court appointed counsel, argued for appellant. Doris A. Calandra, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:30 p.m., the court recessed until Tuesday, April 29, 2008 at 9:30 a.m.

C053222 THE PEOPLE v. CORONA

(Not For Publication)

The judgment is affirmed.
DAVIS, Acting P.J.

We Concur: Raye, J.
Butz, J.

April 25, 2008 continued

C054460 THE PEOPLE v. LOCKHART

(Not For Publication)

The judgment is affirmed.
MORRISON, J.

We Concur: Raye, Acting P.J.
Cantil-Sakaue, J.

C055725 THE PEOPLE v. HERRERA

(Not For Publication)

The trial court is directed to amend the abstract of judgment to reflect this modification and to specify that the \$200 restitution fine (§ 1202.4, subd. (b)) was imposed on July 11, 2005. As amended, the judgment is affirmed. The trial court is directed to send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

DAVIS, J.
We Concur: Sims, Acting P.J.
Raye, J.

C055823 THE PEOPLE v. WALLACE

(Not For Publication)

The judgment is affirmed.
DAVIS, J.

We Concur: Sims, Acting P.J.
Raye, J.

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April 25, 2008 continued

**C056550 In re WALTER P.; THE PEOPLE (Not For Publication)
 v. WALTER P.**

 The judgment is modified by striking the probation conditions (and their effectuating language) that Walter must “complete 45 days on the Home Supervision program” and that he must “participate in and complete 8 days in the Juvenile Work Project program.” As modified, the judgment is affirmed.

DAVIS, J.

We Concur: Blease, Acting P.J.
 Morrison, J.

**C057564 In re JESSIE S.; THE PEOPLE v. JESSIE S.
 BY THE COURT:**

 Pursuant to the written request of the appellant, the appeal filed on December 04, 2007, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 8.316.)

HULL, Acting P.J.